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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/509,125 | 03/28/2005 | Shinichi Nakai | 26379U | 3318 |
| 20529 | 7590 | 03/28/2008 | | |
| NATH & ASSOCIATES 112 South West Street Alexandria, VA 22314 | | | EXAMINER | |
| | | | PHAM, LUU T | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2137 | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/509,125

Applicant(s)

NAKAI ET AL.

Examiner

LUU PHAM

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-86 is/are pending in the application.
- 4a) Of the above claim(s) 1-46, 60-66 and 80-86 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 47-59 and 67-79 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office Action is in response to the application 10/509,125 filed on 03/28/2005.
2. As per the Preliminary Amendment filed on 03/28/2005, claims 1-46, 60-66, and 80-86 were canceled. Claims 47-59 and 67-79 are pending in this application.

Election/Restrictions

3. This application contains claims directed to the following patentably distinct species:
 - a. **Species 1:** Claims 47-49 and 67-69 are drawn to Figs. 2-5.
 - b. **Species 2:** Claims 50-53 and 70-73 are drawn to Figs. 18-21.
 - c. **Species 3:** Claims 54-55 are drawn to Figs. 6-9.
 - d. **Species 4:** Claims 56-58 and 76-78 are drawn to Figs. 22-25.
 - e. **Species 5:** Claim 59 is drawn to Figs. 10-13.
 - f. **Species 6:** Claims 74-75 are drawn to Figs. 14-17.
 - g. **Species 7:** Claim 79 is drawn to Figs. 26-29.
4. The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species.
 - a. **Species 1:** encrypting identification data using a terminal identifier;
 - b. **Species 2:** storing terminal identifier in ROM and generating the directory with the directory determination program. *“Cellular phone 1701 as shown in FIG. 18 differs from cellular phone 101 with the configuration as shown in FIG. 2 in the respect that as terminal identifiers stored in ROM 1713, there are prepared encryption terminal identifier 1714 to encrypt content 1712, and directory determination terminal identifier 1715 used as directory name 1704 of*

content storage directory (hereinafter, simply referred to as a directory) 1703 that stores encrypted content in memory card 1702” (par. 0196).

- c. **Species 3:** performing authentication using authentication program. “**Cellular phone 501** as shown in FIG. 6 **differs from cellular phone 101** with the configuration as shown in FIG. 2 in the respects that cellular phone 501 has authentication program 510, memory card 502 is provided with authentication area 503 to which access is enabled by performing authentication using authentication program 510, and that authentication area 503 stores encrypted identification data 504.” (par. 0085);
- d. **Species 4:** writing time is written in association with encrypted content instead of identification data. “**Cellular telephone 2101** as shown in FIG. 22 **differs from cellular phone 101** with the configuration as shown in FIG. 2 in the respect that write time is written in association with encrypted content 2105, instead of identification data 115 as described in FIG. 2, in writing content 2112 stored in RAM 2111 in memory card 2102.” (par. 0235);
- e. **Species 5:** using terminal identifier is a name of a directory and the directory name is used as substitute for the identification data. “**Cellular phone 901** as shown in FIG. 10 **differs from cellular phone 101** with the configuration as shown in FIG. 2 in the respects that used as terminal identifier 914 stored in ROM 913 is a name of a directory that stores encrypted content 905 in memory card 902, and that the directory name is used as a substitute for identification data 115.” (par. 0123);

- f. **Species 6:** using authentication area to store terminal identifier and authentication program. “**Cellular phone 1301** as shown in FIG. 14 **differs from cellular phone 101** with the configuration as shown in FIG. 2 in the respects that cellular phone 1301 has authentication program 1309, memory card 1302 is provided with authentication area 1303 to which access is enabled by performing authentication using authentication program 1309, and that authentication area 1303 stores terminal identifier 1317 unique to the terminal apparatus.” (par. 0157); and
- g. **Species 7:** storing directory name associated with encrypted content in memory card. “**Cellular telephone 2501** as shown in FIG. 26 **differs from cellular phone 101** with the configuration as shown in FIG. 2 in the respect that directory name 2513 in memory card 2502 is set in association with encrypted content 2505, instead of identification data 115 as described in FIG. 2, in writing content 2512 stored in RAM 2511 in memory card 2502.” (par. 0272).
5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.
6. There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be

applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

7. **Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species,** including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.
8. The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.
9. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

10. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luu Pham whose telephone number is 571-270-5002. The examiner can normally be reached on Monday through Friday, 7:30 AM - 5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel L. Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Luu Pham/
Examiner, Art Unit 2137

Art Unit: 2137

/Emmanuel L. Moise/

Supervisory Patent Examiner, Art Unit 2137